

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7508

Petition of Georgia Mountain Community Wind, LLC,     )  
for a certificate of public good, pursuant to 30 V.S.A.     )  
Section 248, authorizing the construction and operation     )  
of a 5-wind turbine electric generation facility, with     )  
associated electric and interconnection facilities, on     )  
Georgia Mountain in the Towns of Milton and Georgia,     )  
Vermont, to be known as the "Georgia Mountain     )  
Community Wind Project"     )

Order entered: 4/11/2011

**ORDER RE: BLASTING, WELL MONITORING, AND DUST PLAN**

**Introduction**

On June 11, 2010, the Public Service Board ("Board") issued an Order and Certificate of Public Good ("CPG") approving construction of a wind generation facility by Georgia Mountain Community Wind, LLC ("GMCW"). The June 11 CPG included several conditions that GMCW must meet prior to the start of construction, including the following:

13. GMCW shall file a blasting plan, similar to the one approved in Docket 7156 (Petition of UPC Wind), for Board approval. The blasting plan shall include the following conditions: (a) GMCW shall conduct a survey prior to any rock blasting utilizing a geotechnical engineering firm; (b) GMCW shall notify landowners within an appropriate radius of the Project in advance of any rock blasting; (c) GMCW shall limit blasting activities to between 9:00 AM and 5:00 PM Monday through Friday, and blasting activities shall not be permitted on state or federal holidays; (d) GMCW shall hire only licenced and certified blasting technicians, who shall be required to carry adequate insurance and meet all local, state, and national regulations and requirements, including those established by the Vermont Department of Public Safety; and (e) GMCW shall also require in its contracts that noise and air blast effects will be limited through application of proper techniques and that blasting mats be used where needed to limit the occurrence of flyrock and dust migration. In addition, the blasting plan shall provide an explanation of why notification of residences within a half-mile radius of the Project is sufficient and identify on a map the residences that would receive such notice. Parties will have three weeks, from the date this plan is filed with the Board, to comment on the plan. GMCW cannot commence construction until the plan is approved.

14. GMCW shall file a plan for Board approval identifying necessary actions to reduce dust from vehicle traffic and rock crushing during construction. Parties will have three weeks, from the date this plan is filed with the Board, to comment on the plan. GMCW cannot commence construction until the plan is approved.

20. GMCW shall file, for Board approval, a plan that includes pre- and post-construction monitoring of residential wells within an appropriate radius of the Project. The plan must identify the measures that GMCW will take to remediate any damage to residential wells. Parties will have three weeks, from the date this plan is filed with the Board, to comment on the plan. GMCW cannot commence construction until the plan is approved.

On January 25, 2011, GMCW submitted a proposed Blasting, Well Monitoring and Dust Plan ("Plan"). (A copy of the Plan is attached to this Order.)

In this Order we approve the January 25 Plan and conclude that, with the modifications discussed below, the Plan satisfies conditions 13, 14, and 20 of the CPG.

### **Background**

The January 25 Plan states that GMCW will conduct pre- and post-blast surveys of property structures and wells within one-half mile of the blasting area. The testing of the wells will include monitoring of both quality and quantity of water from each well. GMCW states that it will provide "appropriate notices" at least 30 days prior to the start of blasting activities and will make appointments with property owners that wish to have the surveys completed. GMCW asserts that a one-half-mile pre-blast survey is an appropriate and conservative distance that is sufficient to protect neighboring structures and is consistent with prior Board orders.

Pursuant to the Plan, GMCW will provide direct notification of blasting operations to property owners within a one-half mile radius of the blast area. In addition, GMCW states that it will take a number of steps to communicate with the public regarding construction activities, including posting a schedule of construction activities at town offices, maintaining a message board at the project site entrance, and maintaining a twenty-four-hour hotline number through the duration of construction.

With respect to dust control, the Plan sets forth several measures for minimizing and controlling dust generation.

**Comments on the Plan**

On February 22, 2011, the Landowner Intervenor<sup>1</sup> filed a letter expressing concern with certain aspects of the Plan. The Landowner Intervenor asserts that the proposal to directly notify property owners only within one-half mile of the blasting zone is insufficient because the exact locations of the turbines have not been finalized, and consequently, the one-half-mile radius cannot be determined. Additionally, the Landowner Intervenor states that there are several residences just outside the one-half-mile radius that would not receive direct notification, although these residents commonly use Georgia Mountain for recreational purposes and would therefore be impacted by the blasting. The Landowner Intervenor contends that GMCW should be required to notify property owners within one mile of the blasting area, upon request. The Landowner Intervenor further states that the blasting will be a disruption to those families that home school their children, and would also affect the Wimbles' dairy cattle.

The Landowner Intervenor states that any property owner within a one-mile radius of the blasting should be able to request direct notification, and GMCW should be required to directly notify property owners within one mile of the blasting area between the hours of 8 a.m. and 9 a.m. of each day's blast schedule. Further, the Landowner Intervenor states that the one-mile radius should be determined after the turbine locations have been finalized and GMCW should be required to file a revised pre-blast survey for final approval.

The Landowner Intervenor also contends that the well-monitoring plan should provide for notification and testing for any property owner within a one-mile radius of the blasting area.

Finally, the Landowner Intervenor states that, although GMCW outlines measures and controls to minimize dust, the Plan does not explain how these measures will be enforced. The Landowner Intervenor recommends that monitoring be done by an independent party to ensure that GMCW is adhering to the measures and controls.

On February 22, 2011, the Agency of Natural Resources ("ANR") filed comments on the Plan. In particular, ANR recommends that all rock-drilling operations be equipped with either

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1. The Landowner Intervenor consists of Scott and Melodie McLane, Daniel and Tina FitzGerald, Jane and Heidi FitzGerald, George and Kenneth Wimble, Matt and Kim Parisi, Kevin and Cindy Cook, and Kenneth and Virginia Mongeon.

wet or dry dust emission controls to control fugitive particulate matter. In addition, ANR states that prewetting of overburden material prior to blasting, as well as the use of blast mats, can provide some level of dust control. Finally, ANR states that for any rock crushing, screening, conveying, or other processing operations GMCW "would be expected to take reasonable control measures to minimize fugitive dust," and such measures would include "wet suppression or fabric filter pick up points at fugitive dust generating points such as crusher discharges, conveyor transfer points and screen outlets."

On March 9, 2011, GMCW filed a response to the comments submitted by the Landowner Intervenor and ANR. GMCW says it does not oppose the recommendations included in ANR's comments and acknowledges its responsibility to employ reasonable dust-control measures.

With respect to the Landowner Intervenor's comments, GMCW states that it does not object to providing direct notification of blasting operations to all parties to this Docket, in addition to all property owners within a one-half mile radius. GMCW objects to the Landowner Intervenor's proposal that well monitoring be required beyond the one-half-mile radius. GMCW asserts that such a requirement will not provide any measurable benefit and cites to several Environmental Board and Environmental Court cases in which surveys associated with blasting are not required beyond a distance of 2,500 feet. In addition, GMCW states that the Board approved a blasting plan in Docket 7156 in which surveys were offered only to property owners within one-half mile of the blasting area. In addition, GMCW states that the Plan may be approved prior to final determination of turbine locations because the one-half-mile radius is based upon the project boundary rather than the actual location of the turbines; GMCW asserts that the maximum number of residences potentially affected by blasting will not change as a result of the final determination of turbine locations. Finally, GMCW contends that third-party monitoring of GMCW's compliance with the dust-control measures included in the Plan is unnecessary. GMCW asserts that compliance with the measures is in its best interest and there is nothing in the record to suggest that the expense of an independent monitor is necessary to ensure compliance.

No other party filed comments on the Plan.

**Discussion**

We conclude that the Plan provides sufficient protections to potentially impacted landowners, and we approve it with the following conditions.

We conclude that the well-monitoring and structure surveys are necessary only within a one-half-mile radius. This distance is consistent with Board precedent and also with measures related to quarry operations, which can involve significant blasting operations. Additionally, because the one-half-mile radius will not change as a result of the final determination of turbine location, we do not require GMCW to file an amended plan once the turbine location is finalized.

We conclude that the Plan does not include sufficient information regarding the method of informing property owners of the opportunity to have GMCW conduct pre- and post-blast surveys and well monitoring. The Plan states that "[a]ppropriate notices will be given," but does not provide additional detail regarding the form of an appropriate notice. We direct GMCW to, at a minimum, send a certified letter, with return receipt requested, to each property owner within one-half mile that explains why pre- and post-blast surveys and well monitoring is being offered and provide the contact information for a person that is able to answer questions that property owners may have regarding the notice and surveys. GMCW is requested to file copies of the return receipts with the Board.

With respect to direct notification of blasting operations, we conclude that such notification does not need to be provided to all property owners within a one-mile radius. The Landowner Intervenor state that several people in the surrounding area utilize Georgia Mountain for recreational purposes and could be impacted by blasting. However, it is the nearby landowners, not GMCW, who will be in the best position to know whether visitors are using their property for recreational purposes. Furthermore, it is possible that people from outside a one-mile radius would utilize Georgia Mountain for recreational purposes. Accordingly, we do not require GMCW to provide direct notification to all property owners with a one-mile radius. However, GMCW has stated that it will post signage indicating blasting activities and the signal sequence at a message board at the project site entrance. We require that, in addition to providing notice of blasting to owners of property within one-half mile, GMCW must offer to provide signs that those landowners can post on their own property that will state that blasting

may occur and that provide contact information to determine if blasting will occur on a particular day.

We do not require GMCW to employ an independent monitor to ensure compliance with dust control activities. As GMCW states, it is the interest of the employees at the site to minimize dust emissions. Further, we have only required an independent monitor when there is a clear indication that a petitioner is not complying with the conditions contained in the CPG. There is no indication that GMCW will not comply with the dust-control measures contained in the Plan.

Finally, we require GMCW to comply with the recommendations contained in ANR's February 22, 2011, letter.

### **Conclusion**

For the reasons set forth above, we approve the January 25 Plan, with the modifications discussed above, and conclude that, as modified, the Plan satisfies conditions 13, 14, and 20 of the CPG.

**So ORDERED.**

Dated at Montpelier, Vermont, this 11<sup>th</sup> day of April, 2011.

<u>s/ James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/ David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: April 11, 2011

ATTEST: s/ Judith C. Whitney  
Deputy Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*